

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BARRY LONG, a Washington resident,)
Plaintiff,) NO.
vs.)
RJK APPLE FAMILY LIMITED) COMPLAINT FOR
PARTNERSHIP, a Washington Limited) DECLARATORY
Partnership,) AND INJUNCTIVE RELIEF
Defendant.)

COMES NOW, Plaintiff, Barry Long, by and through his attorneys, Conrad Reynoldson and Jonathan Ko, of Washington Civil & Disability Advocate for his Complaint for Declaratory and Injunctive Relief to state and allege as follows:

I. OVERVIEW

1. The Americans with Disabilities Act and the Washington Law Against

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Discrimination require places of public accommodation to be accessible to people with disabilities.

2. A parking service establishment is a place of public accommodation within the meaning of Title III of the ADA, 42 U.S.C. §12181(7), and its implementing regulation, 28 C.F.R. §36.104.

3. Defendant discriminates against individuals with disabilities because Defendant owns property operating as a place of public accommodation that does not comply with the ADA accessibility laws and regulations enacted into law to protect persons with mobility disabilities.

4. Therefore, Plaintiff brings this action to end the civil rights violations by Defendant RJK Apple Family Limited Partnership against persons with mobility disabilities at a place of public accommodation.

II. PARTIES

5. Plaintiff, Barry Long is a resident of Woodinville in King County, Washington, which is in this judicial district.

6. Mr. Long is a qualified individual with a disability as defined by Title III of the Americans with Disabilities Act (“ADA”) and the Washington Law Against Discrimination (“WLAD”), RCW 49.60.010 et seq.

7. Defendant RJK Apple Family Limited Partnership is a Washington limited partnership.

8. Defendant RJK Apple Family Limited Partnership owns the property at 1030 1st Ave S, Seattle, WA 98134.

9. The registered agent for RJK Apple Family Limited Partnership is Marvin Apple.

10. The address for the registered agent for RJK Apple Family Limited Partnership is
1115 NE 108th Ave, #501, Bellevue, WA 98004.

III. JURISDICTION AND VENUE

11. This court has jurisdiction pursuant to 28 U.S.C. §1331, which gives district courts original jurisdiction over civil actions arising in the Constitution, laws, or treaties of the United States.

12. This court has jurisdiction pursuant to 28 U.S.C. §1343(a)(4), which gives district courts jurisdiction over actions to secure civil rights under Acts of Congress.

13. This court has jurisdiction pursuant to 28 U.S.C. §1337, which gives district courts supplemental jurisdiction over state law claims.

14. Venue is appropriate in this judicial district under 28 U.S.C. §1391 because the property, practices, and procedures that gave rise to the Plaintiff's Complaint for Injunctive Relief and Damages occur in this district.

IV. FACTUAL ALLEGATIONS

15. "Congress enacted the ADA in 1990 to remedy widespread discrimination against

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disabled individuals.” PGA Tour, Inc. v. Martin, 532 U.S. 661, 674, 121 S.Ct. 1879, 149 L.Ed.2d 904 (2001).

16. The ADA was enacted in 1990, "[t]o establish a clear and comprehensive prohibition of discrimination on the basis of disability."

17. The ADA prohibits public accommodations from providing individuals with disabilities separate or unequal benefits and services.

18. Defendant's property is difficult or dangerous to access due to substantial compliance issues with the ADA.

19. Per 42 U.S.C. § 12101, the findings and purpose section of the original ADA, "...individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities..."

20. Further, "...census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally..." *Id.*

21. Finally, "...the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals..." *Id.*

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22. Title III of the ADA states in relevant part: "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. § 12182(a).

Plaintiff

23. Mr. Long is a qualified individual with a disability as defined by Title III of the Americans with Disabilities Act (“ADA”) and the Washington Law Against Discrimination (“WLAD”), RCW 49.60.010 et seq. He is limited in the major life activity of walking and uses a wheelchair and a modified vehicle for transportation. He requires compliant accessible parking and a compliant accessible route to be able to patronize places of public accommodation.

24. Mr. Long frequently visits the area of Seattle in and around Defendant's parking facility for both recreational and professional reasons and requires parking.

25. Mr. Long attempted to park on the commercial parking lot on December 10, 2018, but found the parking lot was not accessible.

26. Ms. Long plans to return to the property in question when the accessibility barriers are addressed.

Defendant's Property

27. Defendant owns the property at 1030 1st Ave S, Seattle, WA 98134.

28. Defendant's property does not comply with the ADA's accessibility laws and

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regulations under either the 1991 ADA Standards for Accessible Design (1991 Standards) or 2010 ADA Standards for Accessible Design (2010 Standards).

29. At Defendant's property, there are 60 parking spaces. None are marked as accessible spaces.

30. Three accessible spaces are required under 1991 ADA Standards for Accessible Design (1991 Standards) or 2010 Standards (208.2).

31. One van accessible space is required under 2010 Standards (208.2); there is no marked van accessible parking.

32. Defendant's property is not safe and is not welcoming for people who use wheelchairs because it does not comply with the ADA's accessibility laws and regulations.

33. The failure of Defendant to make the property comply with the ADA's accessibility laws and regulations works to exclude people with disabilities from equal access and enjoyment.

V. FIRST CAUSE OF ACTION
Title III of the Americans with Disabilities Act of 1990
42 U.S.C. § 12101 *et seq.*

34. Plaintiff Long incorporates by reference each and every allegation in the paragraphs above.

35. Mr. Long is limited in the major life activity of walking and is thus a qualified individual with a disability within the meaning of Title III of the ADA.

36. Title III of the ADA states in relevant part: "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. § 12182(a).

37. Defendant, RJK Apple Family Limited Partnership, owns the property where the parking service is located.

38. The parking service is a place of public accommodation. 42 U.S.C. § 12181(7)(B).

39. Defendant has discriminated against Plaintiff on the basis of her disability.

40. Defendant's discriminatory conduct includes but is not limited to:

- a. Discriminatory exclusion and/or denial of goods, services, facilities, privileges, advantages, accommodations, and/or opportunities;
- b. Provision of goods, services, facilities, privileges, advantages, and/or accommodations that are not equal to those afforded non-disabled individuals;
- c. Failing to make reasonable modifications in policies, practices, and/or procedures as necessary to afford the goods, services, facilities, privileges, advantages, and/or accommodations to individuals with disabilities;
- d. Failing to make alterations in such a manner that, to the maximum extent

feasible, the altered portions are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs;

- e. Failing to remove barriers to individuals with disabilities where it would be readily achievable to do so.

41. As such, Defendant discriminates and, in the absence of the injunction requested herein, will continue in the future to discriminate against Plaintiff on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, accommodations and/or opportunities at Defendant's property in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. and/or its implementing regulations.

42. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory and Injunctive Relief has harmed Mr. Long, and the harm continues.

43. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory and Injunctive Relief entitles Mr. Long to declaratory and injunctive relief. 42 U.S.C. § 12188.

44. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory and Injunctive Relief entitles Mr. Long to recover reasonable attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

VI. SECOND CAUSE OF ACTION
Violation of the Washington Law Against Discrimination
(R.C.W. §§ 49.60.010 et seq.)

45. Plaintiff incorporates by reference each and every allegation in the paragraphs

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above.

46. Mr. Long is a qualified individual with a disability within the meaning of the Washington Law Against Discrimination.

47. Section 49.60.030(1) of the Revised Code of Washington provides in pertinent part: "The right to be free from discrimination because of . . . the presence of any sensory, mental, or physical disability . . . is recognized as and declared to be a civil right. This right shall include, but not be limited to: . . . (b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement"

48. Defendant, RJK Apple Family Limited Partnership, owns the property at 1030 1st Ave S, Seattle, WA 98134.

49. Defendant has violated and continues to violate §§ 49.60.010 *et seq.* of the Revised Code of Washington by violating multiple accessibility requirements under the ADA.

50. Defendant's actions constitute discrimination against persons with disabilities and violate the Washington Law Against Discrimination, Revised Code of Washington § 49.60.010 et seq., in that persons with mobility disabilities have been and are denied full and equal enjoyment of the accommodations, advantages, facilities, privileges, and services that Defendant provides to individuals who do not have disabilities.

51. As a direct and proximate result of Defendant's discriminatory conduct as alleged in this Complaint for Declaratory and Injunctive Relief, Mr. Long has suffered and continues to

1 suffer difficulty, hardship, isolation, and segregation due to Defendant's failure to remediate.

2 52. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
3 and Injunctive Relief has denied Mr. Long the full and equal enjoyment of services that the
4 Washington Law Against Discrimination requires.

5 53. Mr. Long has a clear legal right to access Defendant's property under the
6 Washington Law Against Discrimination.

7 54. Mr. Long has the right for Defendant's property to comply with the ADA's
8 accessibility laws and regulations under the Washington Law Against Discrimination.

9 55. Defendant's property does not comply with the ADA's accessibility laws and
10 regulations.

11 56. Because Defendant's property does not comply with the ADA's accessibility laws
12 and regulations, declaratory and injunctive relief are appropriate remedies under the Washington
13 Law Against Discrimination. See e.g. *Kucera v. Dep't of Transp.*, 140 Wash. 2d 200, 209 (2000).

14 57. Pursuant to RCW § 49.60.030(2), Mr. Baker is entitled to declaratory and
15 injunctive relief and to recover from Defendants his reasonable attorneys' fees and costs incurred
16 in bringing this action.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Long respectfully requests that this Court:

1. Assume jurisdiction over this action;

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2. Find and declare Defendant to be in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181, et seq. and the Washington Law Against Discrimination, Wash. Rev. Code §§ 49.60.010 et seq. because Defendant's property does not comply with the ADA's accessibility laws and regulations;

3. Issue a permanent injunction ordering Defendant to immediately implement the necessary improvements to bring the Defendant's property into compliance with the ADA's accessibility laws and regulations;

4. Award Mr. Long reasonable attorneys' fees and costs as authorized by 42 U.S.C. § 12205 and Wash. Rev. Code§ 49.60.030(2);

5. Award actual, compensatory, and/or statutory damages to Mr. Long for violations of his civil rights as allowed under state and federal law;

6. Award such additional or alternative relief as may be just, proper and equitable.

DATED THIS 21th day of December, 2018

WASHINGTON CIVIL & DISABILITY ADVOCATE
Attorneys for Plaintiff

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